

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JOSE RAMIREZ, ALEJANDRO NAVARRETE, WILMER
CAIZA, and SEGUNDO YANZAPANTA, individually and
on behalf of all others similarly situated,

Civil Docket No.:
22-cv-03342 (LGS)

Plaintiffs,
-against-

~~PROPOSED~~
**DEFAULT JUDGMENT
ORDER**

URION CONSTRUCTION LLC, and HERIBERTO
GONZALEZ SIRIAS, as an individual,

Defendants.
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This action was commenced pursuant to the filing of a Summons and Complaint on April 25, 2022 (ECF Dkt. No. 1), which, was served on URION CONSTRUCTION LLC, and HERIBERTO GONZALEZ SIRIAS, as an individual (“Defendants”), as follows:

1. On May 5, 2022, Plaintiffs’ Summons and Complaint was duly served on URION CONSTRUCTION LLC, by personal delivery of process on Sue Zousky, AUTHORIZED AGENT in the Office of the N.Y. Secretary of State, pursuant to N.Y. Limited Liability Company Law Section 303.
2. On May 26, 2022, the Summons and Complaint was served on HERIBERTO GONZALEZ SIRIAS, as an individual, by personal delivery of process to the Defendant’s last known residence, and usual place of abode and by leaving the documents with Maria, wife of HERIBERTO GONZALEZ SIRIAS, as an individual, a person of suitable age and discretion co-residing there.
3. Additionally, the Defendants were served with additional true and correct copies of Plaintiffs’ Summons and Complaint on May 26, 2022, at HERIBERTO GONZALEZ

SIRIAS' last known residence, and usual place of abode, and process was delivered there to Maria, wife of HERIBERTO GONZALEZ SIRIAS, as an individual, a person of suitable age and discretion co-residing there.

4. Plaintiffs apprised The Court by letter dated June 22, 2022, *inter alia*, that: “[i]t is respectfully submitted that all Defendants herein have been successfully served – corporate defendant, Urion Construction LLC, was served on May 5, 2022 via the office of the Secretary of State; and again at its place of business on May 26, 2022 (Dkt. Nos. 7-8); individual defendant, Heriberto Gonzalez Sirias, was personally served with process on May 26, 2022 at the defendant’s last known residence.” Moreover, Plaintiffs apprised The Court that: “[a]fter serving Defendants, and in compliance with the Order, we contacted Defendants at their regular place of business, during normal business hours, to ascertain whether or not Defendants intend on appearing in this matter or retaining counsel to appear on their behalf. The undersigned spoke directly with individual defendant, Heriberto Gonzalez Sirias, and apprised Mr. Sirias of the above, and of Defendants’ obligations in this matter. Mr. Sirias appeared somewhat agitated during our phone conversation and indicated that the Defendants do not intend on retaining counsel to appear or otherwise defend this matter; and that Mr. Sirias would ‘pass along this message to the other owner(s) of Urion,’ at which point, Mr. Sirias ‘will know, and will inform us, as to whether Defendants have decided to retain counsel to appear on their behalf.’ As such, we interpret[ed] Defendants’ response to advising them of the above as a refusal to cooperate.”
5. On that same day, June 23, 2022, Plaintiffs filed proof of service on the docket on All Defendants, of *inter alia*: (a) the Order of the Hon. Lorna G. Schofield, U.S.D.J. dated

May 6, 2022; (b) the Order of the Hon. Lorna G. Schofield, U.S.D.J. dated June 22, 2022; and (c) Plaintiffs' above referenced Letter, dated June 23, 2022. Plaintiffs served Defendants with these documents at the corporate defendant's actual place of business, and the individual defendant's last known residence and actual place of abode.

6. In addition to Plaintiffs' counsel's telephone conversation with individual defendant, HERIBERTO GONZALEZ SIRIAS, as an individual, on June 23, 2022, Plaintiffs' counsel contacted, and spoke directly with HERIBERTO GONZALEZ SIRIAS, as an individual, on August 2, 2022, during which, HERIBERTO GONZALEZ SIRIAS hung up the phone to terminate the phone call, expressing again, that neither he, nor URION CONSTRUCTION LLC, will respond, appear, or otherwise defend in this matter.
7. Accordingly, upon Plaintiffs' request, the Clerk of Court entered the Default of All Defendants, URION CONSTRUCTION LLC, and HERIBERTO GONZALEZ SIRIAS, as an individual, pursuant to Rule 55(a) of the Federal Rules of Civil Procedure, on August 2, 2022, for the Defendants' failure to appear or defend in this matter.
8. On August 2, 2022, Plaintiffs apprised The Court, *inter alia*, that: "earlier today we contacted Defendants and again spoke directly with the individual defendant, Mr. Sirias, who made it clear that no one is or will be appearing in this matter for Defendants, and specifically, moreover, that no one will be appearing on behalf of the Defendants by tomorrow's deadline. Therefore, prior to the filing of this letter, we filed Plaintiffs' Requests for Certificates of Default as against all Defendants (Dkt. Nos. 16-17), true and correct copies of which are being served on the Defendants, together with this letter.
9. The Plaintiffs' Letter Motion dated August 2, 2022, and the Clerk's Entry of Default against all Defendants, were each served on Defendants via United States Certified First-

Class Mailing: (i) to URION CONSTRUCTION LLC at its place of business and registered address for receiving service of documents per N.Y. Department of State Records; and (ii) to HERIBERTO GONZALEZ SIRIAS, as an individual, to at his last known residence and actual place of abode To date, the Defendants have not responded, appeared, or otherwise defended in this matter, and remain in default.

10. Defendant URION CONSTRUCTION LLC, is not an infant, nor an incompetent.
11. Defendant HERIBERTO GONZALEZ SIRIAS, as an individual, is not an infant, nor an incompetent; HERIBERTO GONZALEZ SIRIAS, as an individual, is the competent, adult owner of the defendant corporate entity sued herein; and HERIBERTO GONZALEZ SIRIAS is not in active military service of the United States, as appears from the facts comprising this litigation.
12. The Defendants have not appeared, responded, nor otherwise defended, since the above referenced Certificates were duly entered by the Clerk of Court, and served on Defendants.
13. It is respectfully submitted that the Defendants have been properly served, are aware of the Plaintiffs' Complaint and of pendency of this matter against them, and have willfully and deliberately failed or refused to appear, or otherwise defend in this matter.
14. As of the date of this filing, the Defendants have demonstrated no intention or desire to defend in this action.

THEREFORE:

WHEREAS, Defendants are liable to the Plaintiffs on the First Cause of Action for Overtime Wages Under The Fair Labor Standards Act; and

WHEREAS, Defendants are liable to the Plaintiffs on the Second Cause of Action for Overtime Wages Under New York Labor Law; and

WHEREAS, Defendants are liable to the Plaintiffs on the Third Cause of Action for Unpaid Wages Under The Fair Labor Standards Act; and

WHEREAS, Defendants are liable to the Plaintiffs on the Fourth Cause of Action for Unpaid Wages Under The New York Labor Law; and

WHEREAS, Defendants are liable to the Plaintiffs on the Fifth Cause of Action for Violations of Frequency of Pay Requirements Under New Yor Labor Law; and

WHEREAS, Defendants are liable to the Plaintiffs on the Sixth Cause of Action for Violation of the Wage Statement Requirements of the New York Labor Law; and

WHEREAS, Defendants are liable to the Plaintiffs on the Seventh Cause of Action for Violation of the Notice and Recordkeeping Requirements of the New York Labor Law;

Accordingly, it is hereby: **ORDERED, ADJUDGED AND DECREED** that, pursuant to Rule 55 of the Federal Rules of Civil Procedure, Plaintiffs have judgment against Defendants Urion Construction LLC and Heriberto Gonzales Sirias in amounts to be determined by post-default judgment inquest.

~~**ORDERED, ADJUDGED AND DECREED:** That Plaintiff JOSE RAMIREZ, has a judgment against URION CONSTRUCTION LLC, and HERIBERTO GONZALEZ SIRIAS, as an individual, in the liquidated amount of \$ 326,927.02, consisting of: (a) unpaid overtime wages in the sum of \$ 77,187.80; and (b) liquidated damages in the sum of \$ 77,187.80; and (c) liquidated damages for late payments in the sum of \$ 162,551.41; and (d) statutory damages in the amount of \$ 10,000.00; and it is~~

~~**ORDERED, ADJUDGED AND DECREED:** That Plaintiff ALEJANDRO NAVARRETE, has a judgment against URION CONSTRUCTION LLC, and HERIBERTO GONZALEZ SIRIAS, as an individual, in the liquidated amount of \$ 242,251.56, consisting of: (a) unpaid overtime~~

~~wages in the sum of \$ 51,265.69; and (b) liquidated damages in the sum of \$ 51,265.69; and (c) liquidated damages for late payments in the sum of \$ 129,720.18; and (d) statutory damages in the amount of \$ 10,000.00; and it is~~

~~**ORDERED, ADJUDGED AND DECREED:** That Plaintiff WILMER CAIZA, has a judgment against URION CONSTRUCTION LLC, and HERIBERTO GONZALEZ SIRIAS, as an individual, in the liquidated amount of **\$ 26,650.00**, consisting of: (a) unpaid overtime wages in the sum of \$ 2,850.00; and (b) unpaid wages for work performed in the sum of \$ 1,200.00; (c) liquidated damages in the sum of \$ 4,050.00; and (d) liquidated damages for late payments in the sum of \$ 8,550.00; and (d) statutory damages in the amount of \$10,000.00; and it is~~

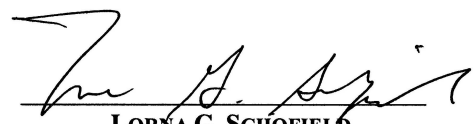
~~**ORDERED, ADJUDGED AND DECREED:** That Plaintiff SEGUNDO YANZAPANTA, has a judgment against URION CONSTRUCTION LLC, and HERIBERTO GONZALEZ SIRIAS, as an individual, in the liquidated amount of **\$ 54,807.36**, consisting of: (a) unpaid overtime wages in the sum of \$ 8,360.49; and (b) unpaid wages for work performed in the sum of \$ 1,500.00; (c) liquidated damages in the sum of \$ 9,860.49; and (c) liquidated damages for late payments in the sum of \$ 25,086.38; and (d) statutory damages in the amount of \$10,000.00;~~

~~Amounting in all to judgment in the sum of **\$650,635.93** in favor of Plaintiffs and against the Defendants, plus statutory interest accruing in accordance with 28 U.S.C. § 1961 from the date of entry of judgment, until judgment is paid in full.~~

The Complaint alleges that Defendants violated the minimum wage and overtime provisions of the Fair Labor Standards Act, the New York Minimum Wage Act and the overtime, frequency of pay, notice and recordkeeping, and wage statement provisions of the New York Labor Law. The Complaint sufficiently pleads these claims to establish liability as a matter of law. *See City of New York v. Mickalis Pawn Shop, LLC*, 645 F.3d 114, 137 (2d Cir. 2011) ("[A] district court is required to determine whether the plaintiff's allegations establish the defendant's liability as a matter of law."). The Complaint adequately alleges that Defendants willfully failed to pay Plaintiffs applicable minimum wages, willfully failed to pay Plaintiffs overtime compensation, willfully failed to pay Plaintiffs weekly and failed to provide Plaintiffs with written notice of their rate(s) of pay and/or dates of work covered by any payments received.

An order referring the case for a damages inquest will issue separately.

Dated: September 26, 2022
New York, New York


LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JOSE RAMIREZ, ALEJANDRO NAVARRETE, WILMER CAIZA, and SEGUNDO
YANZAPANTA, individually and on behalf of all others similarly situated,

Plaintiffs,

-against-

URION CONSTRUCTION LLC, and HERIBERTO GONZALEZ SIRIAS, as an individual,

Defendants.

PROPOSED DEFAULT JUDGMENT ORDER

Civil Docket No.: 22-cv-03342 (LGS)

HELEN F. DALTON & ASSOCIATES, P.C.

Attorneys for Plaintiffs

80-02 Kew Gardens Road, Suite 601

Kew Gardens, New York 11415

Phone: (718) 263-9591

SERVICE TO: *All defendants via UPS*

Overnight Courier To:

URION CONSTRUCTION LLC

Attention: Heriberto Gonzalez Sirias

95 OLD BROADWAY

NEW YORK, NY 10027-7912

HERIBERTO GONZALEZ SIRIAS

63 BAYVIEW AVENUE

JERSEY CITY, NJ 07305

*See, Affidavit of Service filed and submitted
herewith.*